

REFERENCE TITLE: sand and gravel permits; notice

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1295**

Introduced by  
Senator Harper

AN ACT

AMENDING SECTION 48-3613, ARIZONA REVISED STATUTES; RELATING TO COUNTY FLOOD CONTROL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 48-3613, Arizona Revised Statutes, is amended to  
3 read:

4       48-3613. Authorization required for development in  
5       watercourses: exceptions; enforcement

6       A. Except as provided in section 48-3625 and in this section, a person  
7 shall not engage in any development which will divert, retard or obstruct the  
8 flow of waters in any watercourse without securing written authorization from  
9 the board of the district in which the watercourse is located. FOR ANY  
10 PERMIT RELATING TO SAND AND GRAVEL OPERATIONS, THE BOARD SHALL PROVIDE  
11 WRITTEN NOTICE OF THE APPLICATION FOR THE PERMIT TO THE GOVERNING BODY OF  
12 EVERY CITY OR TOWN WITHIN A FIVE MILE RADIUS OF THE PROPERTY ON WHICH THE  
13 SAND AND GRAVEL OPERATION IS TO OCCUR. THE NOTICE SHALL INCLUDE ANY DATE FOR  
14 A HEARING OR OTHER OPPORTUNITY TO OBJECT TO THE ISSUANCE OF THE PERMIT.  
15 Where the watercourse is a delineated floodplain no development shall take  
16 place in the floodplain without written authorization from the board of the  
17 district in which the floodplain is located.

18       B. Written authorization is not required for nor shall the board  
19 prohibit:

20       1. The construction of bridges, culverts, dikes and other structures  
21 necessary for the construction of public highways, roads and streets  
22 intersecting or crossing a watercourse.

23       2. The construction of storage dams for watering livestock or wildlife  
24 and structures on banks of a watercourse to prevent erosion of or damage to  
25 adjoining land if the structure will not divert, retard or obstruct the  
26 natural channel of the watercourse or dams for the conservation of  
27 floodwaters as permitted by title 45, chapter 6.

28       3. Construction of tailing dams and waste disposal areas used in  
29 connection with mining and metallurgical operations. This paragraph does not  
30 exempt those sand and gravel operations which will divert, retard or obstruct  
31 the flow of waters in a watercourse from complying with and acquiring  
32 authorization from the board pursuant to regulations adopted by the board  
33 under this article.

34       4. Other construction if it is determined by the board that written  
35 authorization is unnecessary.

36       5. Any flood control district, county, city, town or other political  
37 subdivision from exercising powers granted to it under this article.

38       6. The construction of streams, waterways, lakes and other auxiliary  
39 facilities in conjunction with development of public parks and recreation  
40 facilities by a public agency or political subdivision.

41       7. The construction and erection of poles, towers, foundations,  
42 support structures, guy wires, and other facilities related to power  
43 transmission as constructed by any utility whether a public service  
44 corporation or a political subdivision.

1       C. Before any construction authorized by subsection B of this section  
2 may begin, the person must submit plans for the construction to the board for  
3 review and comment.

4       D. In addition to other penalties or remedies otherwise provided by  
5 law, this state, a political subdivision or a person who may be damaged or  
6 has been damaged as a result of the unauthorized diversion, retardation or  
7 obstruction of a watercourse has the right to commence, maintain and  
8 prosecute any appropriate action or pursue any remedy to enjoin, abate or  
9 otherwise prevent any person from violating or continuing to violate this  
10 section or regulations adopted pursuant to this article. If a person is  
11 found to be in violation of this section, the court shall require the  
12 violator to either comply with this section if authorized by the board or  
13 remove the obstruction and restore the watercourse to its original state.  
14 The court may also award such monetary damages as are appropriate to the  
15 injured parties resulting from the violation, including reasonable costs and  
16 attorney fees.